

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

PLUMBERS AND PIPEFITTERS LOCAL UNION
NO. 630 PENSION-ANNUITY TRUST FUND,
Individually and On Behalf of All Others Similarly
Situated,

Plaintiff,

- v -

ARBITRON INC., *et al.*,

Defendants.

Civil Action No. 1:08-CV-04063 (JGK)

CLASS ACTION

**STIPULATION AND
[PROPOSED] CASE
MANAGEMENT ORDER**

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DATE FILED: <u>11-8-10</u>

WHEREAS, counsel for the parties who remain in the action as a result of the Court's Order of September 30, 2010 ("Parties"), met and conferred telephonically with respect to a proposed case management order;

WHEREAS, the Court held an initial pretrial scheduling conference on October 8, 2010 at which the Parties reviewed various matters related to the proposed schedule with the Court;

WHEREAS, the Parties held further discussions consistent with the instructions given by the Court at the initial pretrial conference; and

WHEREAS, the Parties have agreed upon the proposed schedule set forth below;

IT IS HEREBY ORDERED THAT, the following schedule shall govern further proceedings in this litigation:

Amendment, Joinder of Parties and Answers

1. Plaintiff may seek joinder of additional parties by August 1, 2011 consistent with the Federal and Local Rules.
2. Amended pleadings may not be filed except with leave of the Court.
3. Answers to the Second Amended Complaint were filed on October 29, 2010.

Class Certification Motion

4. Any motion by Plaintiff for class certification, with supporting papers and Plaintiff's expert report(s) consistent with the scope of Fed. R. Civ. P. 26(a)(2)(B), (if any), shall be filed by December 15, 2010. Depositions related to discovery regarding Plaintiff's class certification motion and expert report(s), if any, shall be completed no later than February 1, 2011.
5. Defendants shall file their opposition to any Plaintiff motion for class certification (including all papers and Defendants' expert report(s) consistent with the scope of Fed. R. Civ. P. 26(a)(2)(B)), if any, by March 1, 2011. Depositions, if any, related to discovery regarding Defendants' oppositions to class certification and expert report(s), if any, shall be completed no later than April 8, 2011.

6. Plaintiff shall file its reply in support of its motion for class certification, if any, by May 16, 2011.

Fact Discovery

7. Fact discovery shall commence as of November 8, 2010. The Parties shall serve their initial discovery requests no later than 14 days thereafter.
8. The Parties shall serve their initial disclosures pursuant to Fed. R. Civ. P. 26(a)(1)(A) by November 15, 2010.
9. Defendants' document production in response to Plaintiff's initial document requests shall be produced on a rolling basis commencing within 14 days of receipt of Plaintiff's initial document requests and shall be substantially completed by March 1, 2011.
10. Within one month of November 8, 2010, the Parties shall meet (telephonically or otherwise) and confer on a proposed protective order that shall include provisions with respect to (i) confidential business information; (ii) any provisions relating to depositions of confidential witnesses; (iii) provisions to protect Parties from inadvertent production; and (iv) any other matters the Parties may wish to include.
11. The Parties shall hold meet and confer conferences on a prompt basis after service of any Party's objections to any discovery requests.
12. The Parties shall confer, in good faith, upon scheduling the dates and locations for depositions of Party and non-party fact witnesses. The Parties' obligation to confer is without prejudice to any Party serving notices for depositions if agreement cannot be reached. To the extent possible, depositions shall take place in a location convenient to the witness.
13. All depositions shall occur between March 1, 2011 and August 8, 2011.
14. The deadline for completion of all fact discovery shall be August 8, 2011.

Expert Discovery

15. Plaintiff shall provide its initial disclosure of experts, including expert reports, pursuant to Fed. R. Civ. P. 26(a)(2), by August 1, 2011. Defendants may commence discovery regarding any Plaintiff expert report thereafter.
16. Defendants shall provide their initial disclosure of experts, including expert reports, pursuant to Fed. R. Civ. P. 26(a)(2), by September 1, 2011. Plaintiff may commence discovery regarding any Defendant expert report thereafter.
17. Rebuttal expert reports consistent with the scope of Fed. R. Civ. P. 26(a)(2)(B), if any, shall be provided by October 6, 2011. Defendants may commence discovery regarding any Plaintiff rebuttal expert report thereafter.
18. In general, depositions of Plaintiff's experts shall occur before depositions of Defendants' experts.
19. All expert discovery shall end by October 17, 2011.

Motions for Summary Judgment

20. In accordance with this Court's Individual Practice 2.A, a pre-motion conference shall be held before any motion for summary judgment.
21. Motions for Summary Judgment, if any, shall be filed by November 7, 2011.
22. Oppositions to Motions for Summary Judgment, if any, shall be filed no later than 45 calendar days after the filing of Motions for Summary Judgment.
23. Replies in Support of Motions for Summary Judgment, if any, shall be filed within 30 calendar days after the Oppositions.
24. Any *Daubert* motions shall be filed after July 25, 2011 and no later than November 7, 2011. Oppositions to any *Daubert* motions shall be filed no later than 30 calendar days after the filing of a *Daubert* motion. Any reply in support of a *Daubert* motion shall be filed within 20 calendar days after the opposition.

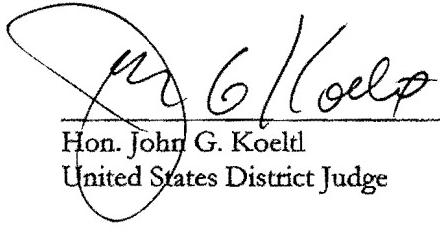
Pretrial Conference and Trial

25. The parties shall file a joint pretrial order, consistent with this Court's Individual Practice 4.A, by the later of (a) December 15, 2011; or (b) 30 days following the Court's ruling on any summary judgment motions, whichever is later.
26. The Parties shall comply with this Court's Individual Practice 4.A with respect to both the timing and content of the filing specified therein.
27. A pretrial conference shall be held promptly following the ruling by the Court on any summary judgment motions.
28. Trial will commence on a date to be set at the Final Pretrial Conference or by Court Order.

Miscellaneous

29. Discovery matters shall be handled by Magistrate Judge Theodore Katz, who is assigned to this case, or any other Magistrate Judge that is later assigned by the Court to this case.
30. This Scheduling Order may be amended upon a showing of good cause and with the Court's consent. The Parties agree to meet and confer regarding any proposed changes to the Case Management Order, before presenting such a proposed change to the Court.
31. All papers that are not filed with the Court via the ECF process shall be exchanged by the Parties via e-mail, except to the extent that transmission of any such documents electronically is impractical, in which event service shall be made by hand or through overnight delivery. Service by e-mail or by overnight delivery under this paragraph shall be treated as the same as service by mail.

IT IS SO ORDERED:

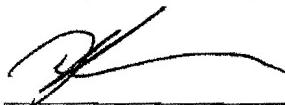

Hon. John G. Koeltl
United States District Judge

November 8, 2010

STIPULATED AND AGREED TO this 5th day of November, 2010.

Dated: November 5, 2010

PAUL, HASTINGS, JANOFSKY & WALKER LLP

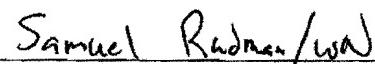

By:
William A. Novomisle
75 East 55th Street
New York, NY 10022-3205
Telephone: (212) 318-6000
Facsimile: (212) 319-4090

James D. Wareham
James E. Anklam
875 15th Street, N.W.
Washington, D.C. 20005
Telephone: (202) 551-1700
Facsimile: (202) 551-1705

Attorneys for Defendant
ARBITRON INC.

Dated: November 5, 2010

ROBBINS GELLER RUDMAN AND DOWD LLP


By:
Samuel H. Rudman
David A. Rosenfeld
Fainna Kagan
58 South Service Road, Suite 200
Melville, NY 11747
Telephone: (631) 367-7100
Facsimile: (631) 367-1173

Attorneys for Plaintiff
PLUMBERS AND PIPEFITTERS LOCAL UNION NO. 630
PENSION-ANNUITY TRUST FUND

Dated: November 5, 2010

WEIL, GOTSHAL & MANGES LLP

Anthony Albanese / wN

By:

Jonathan Polkes
Anthony Albanese
767 Fifth Avenue
New York, NY 10153
Telephone: (212) 310-8000
Facsimile: (212) 310-8007

Attorneys for Defendant
STEPHEN B. MORRIS

LEGAL_US_E # 90009483.8